IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

THURSDAY, THE 29TH NOVEMBER 2007 / 8TH AGRAHAYANA 1929

OP.No. 312 of 2003(K)

PETITIONER:

A.K.MENON, S/O.ACHUTHA POTHUVAL,
AMBADY VEETTIL, CHILAVANNOOR, ELAMKULAM,
KANAYANNUR, ERNAKULAM DISTRICT.

BY ADV. SRI.SAJEEV KUMAR K.GOPAL

RESPONDENTS:
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1. THE TAHSILDAR, TALUK OFFICE,
NORTH PARAVOOR.

2. THE DISTRICT COLLECTOR, ERNAKULAM.

3. SMT.RADHAMANI, W/O.LATE K.K.VASUDEVAN,
KALATHIPARAMBIL THUNDATHUMKADAVU,
VARAPPUZHA.

BY ADV. SRI.G.GOPAKUMAR (CHERTHALA)
SRI.RASHEED C.NOORANAD
ADV. SMT.T.B.RAMANI, GOVERNMENT PLEADER

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 29/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

O.P.NO. 312/2003

ORDER ON CMP NO. 432/2003 IN O.P.NO. 312/2003

DISMISSED.

29/11/2007 SD/- (C.N.RAMACHANDRAN NAIR, JUDGE)

APPENDIX

PETITIONER'S EXHIBITS

P1 : COPY OF ORDER NO.C1-1/84-85/ABKARI(1) DATED 06/11/2002 RENDERED BY THE 1ST RESPONDENT.

P2 : COPY OF THE REVISION PETITION DATED 13/12/2002 SUBMITTED BY THE petitioner BEFORE THE 2ND RESPONDENT.

P3 : COPY OF THE PETITION FOR STAY ALONG WITH AFFIDAVIT SUBMITTED IN EXT.P2 REVISION PETITION.

P4 : COPY OF THE NOTICE IN FORM.11(SEC.36) VIDE C1-1/84-85/ABKARI DATED 27/11/2002 ISSUED BY THE 1ST RESPONDENT FOR SALE OF 3 ACRES AND 971/2 CENTS OF PROPERTY COMPRISED IN SY.NO.416/1 AND 420/1 OF VARAPPUZHA VILLAGE.

// TRUE COPY //

PA TO JUDGE.

jg

C.N.RAMACHANDRAN NAIR, J.

O.P. No. 312 of 2003

Dated, this the 29th day of November, 2007

J U D G M E N T

The defaulter to kist arrears, transferred the property to his wife, who in turn transferred the property to another person and after several transfers, petitioner is the present owner of the property. Transfer of property was contested by the State as violative of Section 44 of the Revenue Recovery Act. Learned Government Pleader pointed out that appeal filed by the State against civil court judgment obtained is allowed by the Supreme Court. If that be so, the successive owners, including the petitioner, will not get title on account of defective title of the first transferee, namely the wife of the defaulter. In the circumstances, respondents are free to ignore all subsequent transfers based on the decision of the Supreme Court, and proceed to recover the arrears by sale of the property held by the petitioner. However, on equitable consideration, I feel, petitioner can be allowed to retain the property, provided, he clears the arrears due to the State along with interest. Petitioner is given time till 28/02/2008 to settle the

arrears over the property. If arrears are not cleared by then, respondents will take over the property and sell the same based on the decision of the Supreme Court.

This original petition is disposed of as above.

(C.N.RAMACHANDRAN NAIR, JUDGE)

jg